

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

GRIGOR B. HRISTOV and	:	
KAROLINA M. HRISTOVA,	:	
individually and on behalf of all	:	
others similarly situated,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	C.A. No.:
	:	
SEAFOOD SHANTY	:	
RESTAURANT MANAGEMENT,	:	
INC.; FRANK J. PELLEGRINO;	:	
and DENISE PAGE,	:	
	:	
Defendants.	:	
	:	

NOTICE OF REMOVAL

This Court is hereby petitioned that the above-captioned matter, now pending in the Superior Court of the Commonwealth of Massachusetts in and for the County of Dukes, Civil Action No.: 1974CV00037, be removed to this Court, with full reservation of all defenses, pursuant to 28 U.S.C. §§ 1331, 1441 and 1446. In support thereof, it is stated that:

1. This is a civil action in which the plaintiffs, for themselves and on behalf of a putative class of similarly situated individuals, have advanced sundry claims, including assertions arising under federal law, namely, the Fair Labor Standards Act, codified at 29 U.S.C. § 201 et seq. A copy of the operative state court complaint, with attachments, containing those references to federal law in: (1) the “Summary” on pages one and two; (2) Paragraph Eight; (3) Paragraph Thirteen; (4) in the bolden section heading following Paragraph Seventy-Eight; (4) Paragraph Eighty; (5) Paragraph Eighty-Nine; (6) Paragraphs Ninety through Ninety-Four; (7) Paragraph Ninety-Nine; (8) Paragraph 102; (9) Count Two on page twenty-one, purporting to advance a

Fair Labor Standards Act claim; (10) Count Seven on page twenty-three, purporting to advance a different Fair Labor Standards Act claim; (11) Paragraphs 178 through 179; (12) Paragraphs 183 through 186; (13) Paragraphs 190 through 191; (14) Paragraph 214; (15) Paragraph 216; (16) Paragraph 218; (17) Paragraph 220; and, (18) Attachment G to the complaint, is appended hereto and designated as “Attachment A[.]”

2. The underlying action therefore may be removed to this Court pursuant to the provisions of 28 U.S.C. §§ 1331 and 1441 (a) in that the action includes federal claims over which this Court would have original jurisdiction as a civil action arising under the “Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331. Pursuant to 28 U.S.C. § 1367, this Court possesses supplemental jurisdiction over all state law claims contained within the complaint as the state law claims derive from a common nucleus of operative fact and form part of the same case or controversy as that presented by the federal claims.

3. The filing of this notice complies with the thirty day window for removal imposed by 28 U.S.C. § 1446, as service purportedly was made on September 4, 2019. Appended hereto appended hereto and designated as “Attachment B” is the process for the various defendants filed by the plaintiff with the Superior Court.

4. Appended hereto and designated as “Attachment C” is the state Civil Action Cover Sheet.

5. Appended hereto and designated as “Attachment D” is the United States District Court District of Massachusetts Civil Cover Sheet

6. Appended hereto and designated as “Attachment E” is the United States District Court Case Category Form.

7. Pursuant to 28 U.S.C. § 1446 (d), written notice of the filing of this Notice of Removal will be sent promptly to counsel for the plaintiff and filed with the Superior Court.

8. Pursuant to 28 U.S.C. § 1441 (a), venue in this district is proper because this action currently is pending in the Dukes County Superior Court, a court sitting within the jurisdiction of the United States District Court for the District of Massachusetts.

9. Nothing in this Notice of Removal shall be interpreted as a waiver or relinquishment of the defendants' rights to assert any defense or affirmative matter.

WHEREFORE, it is respectfully requested that the above-captioned matter now pending in Dukes County of the Commonwealth of Massachusetts be removed to this Court.

THE DEFENDANTS,
By their attorneys,

/s/ John M. Collins
John M. Collins, Esq.
BBO #: 092580
Collins & Associates
572 Lighthouse Road
Aquinnah, MA 02535- 1380
508.523.9731
jackmcopa@aol.com

/s/ Andrew J. Gambaccini
Andrew J. Gambaccini
BBO #: 654690
Reardon, Joyce & Akerson, P.C
4 Lancaster Terrace
Worcester, MA 01609
508.754.7285
agambaccini@rja-law.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing, filed through the Electronic Case Filing System, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and that a paper copy shall be served upon those indicated as non-registered participants on September 19, 2019.

/s/ Andrew J. Gambaccini
Andrew J. Gambaccini